First Amendment to the Draft Environmental Impact Report/ Environmental Assessment

KING AND DOBBIN TRANSIT VILLAGE AND US 101 – OAKLAND/MABURY TRANSPORTATION DEVELOPMENT POLICY (PDC07-015, NR07-002 and PP07-172)

SCH# 2007062068

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

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PREFACE

This document, together with the September 2007 Draft Environmental Impact Report (Draft EIR) for the King and Dobbin Transit Village and US 101 – Oakland/Mabury TDP constitutes the Final Environmental Impact Report ("Final EIR" or "FEIR") for the proposed project. Under the California Environmental Quality Act (CEQA), the Final EIR is an informational document prepared by the Lead Agency that must be considered by the decision-makers before approving the proposed project. CEQA Guidelines Section 15132 specifies that a Final EIR shall consist of the following:

- The Draft EIR or a revision of the draft;
- Comments and recommendations received on the Draft EIR either verbatim or in summary;
- A list of persons, organizations, and public agencies commenting on the Draft EIR;
- The responses of the Lead Agency to the significant environmental points raised in the review and consultation process; and
- Any other information added by the Lead Agency.

In conformance with the CEQA Guidelines, the Final EIR provides objective information regarding the environmental consequences of the proposed project. The Final EIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The Final EIR will be used by the City and other Responsible Agencies in making decisions regarding the project. The CEQA Guidelines require that, while the information in the Final EIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the Draft EIR by making written findings for each of those significant effects before it approves a project.

According to Section 21081 of the California Public Resources Code, no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(A) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the EIR.

(B) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (A), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

The Final EIR will be made available to the public and commenting public agencies 10 days prior to the EIR certification hearing.

All documents referenced in this EIR are available for public review at the Department of Planning, Building, and Code Enforcement, located at 200 East Santa Clara Street, San José, California, on weekdays during normal business hours.

SECTION 1 LIST OF AGENCIES AND INDIVIDUALS RECEIVING THE DRAFT EIR OR NOTICE OF AVAILABILITY OF THE DRAFT EIR

State of California (via State Clearinghouse)

- Air Resources Board, Transportation Projects
- Caltrans, District 4
- California Highway Patrol
- Department of Water Resources
- Department of Fish and Game, Region 3
- Native American Heritage Commission
- Office of Emergency Services
- Department of Parks and Recreation
- Public Utilities Commission
- Regional Water Quality Control Board, Region 2
- Caltrans, Division of Transportation Planning

County and Regional Agencies

- Alameda County Planning Department
- Association of Bay Area Governments
- Santa Clara County Planning Department
- Santa Clara Valley Water District
- Santa Clara Valley Transportation Authority
- County Roads and Airports

Local Governments

- City of Campbell
- City of Cupertino
- City of Fremont
- Town of Los Gatos
- City of Milpitas
- City of Morgan Hill
- City of Santa Clara
- City of Saratoga
- City of Sunnyvale

School Districts

- East Side Union High School District
- Alum Rock Union Elementary School District
- Mount Pleasant Elementary School District

Organizations, Companies, and Individuals

- Pacific Gas and Electric
- San Jose Water Company
- Union Pacific Railroad

The Draft EIR was also on file and available for review at the City of San José Planning Division, the Educational Park Branch Library, and the Dr. Martin Luther King Jr. Main Library.

SECTION 2 LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE DEIR

Comment Received From		Date of Letter	Response on Page
State Agencies			
A.	Department of Toxic Substances Control	September 26, 2007	7
B.	Department of Transportation (Letter 1)	October 26, 2007	8
C.	Department of Transportation (Letter 2)	October 26, 2007	10
D.	Public Utilities Commission	October 29, 2007	13
County and Regional Agencies			
E.	East Side Union High School District	October 29, 2007	14
F.	Santa Clara Valley Transportation Authority	October 31, 2007	16
Organizations and Individuals			
G.	Marian Duran	October 20, 2007	16

SECTION 3 RESPONSES TO COMMENTS RECEIVED ON THE DEIR

The following section includes all of the comments requiring responses contained in letters received during the advertised 45-day review period by the City of San José regarding this DEIR. The comments are organized under headings containing the source of the letter and its date. The specific comments have been excerpted from the letters and are presented as "comment" with each response directly following. Each of these letters submitted to the City of San José is contained in its entirety in Section 5 of this document.

A. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE CALIFORNIA DEPARTMENT OF TOXIC SUBSTANCES CONTROL DATED SEPTEMBER 26, 2007.

COMMENT A-1: For each parcel included in the Project, DTSC strongly recommends that site assessments, including sampling, should be completed to determine whether hazardous substances may have been released into the soil at the site. Since some of the buildings were constructed before 1978, lead and asbestos issues would also need to be addressed. If the past use of these buildings involved hazardous material use, there exists the possibility of a release of these materials to the environment and needs to be investigated. Depending on the past use of these buildings, sampling and remediation of the site may be required before the project site can be developed. Where concerns are identified, sampling should be conducted to determine whether there is an issue that will need to be addressed in the CEQA compliance document.

RESPONSE A-1: Mitigation measures under Section 2.4.3.1 for identified soil and groundwater contamination on the site were included in the Draft EIR for the project on pages 97 and 98. In addition, standard measures under Section 2.4.2.7 to address asbestos and lead based paint in buildings on the site were including in the Draft EIR on page 94. For parcels where further characterization of impacted soil and/or groundwater is warranted, additional testing and appropriate remediation is identified as mitigation for the project and will be completed to the satisfaction of the City's Environmental Compliance Officer in coordination with the Department of Toxic Substances Control or Santa Clara County Environmental Health Department. These measures would ensure adequate remediation of the site prior to occupancy by future residents of the site.

COMMENT A-2: Where hazardous substances have been released, they will need to be addressed as part of this project. For example, if remediation activities at the Site include the need for soil excavation, the CEQA compliance document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should be there an accident on the Site.

RESPONSE A-2: The project would be required to incorporate the demolition and construction dust mitigation recommendations of the Bay Area Air Quality Management District identified as mitigation measures MM AQ-4.1 and MM AQ-4.2 in the Draft EIR. Incorporation of these measures would reduce the air, health, and dust impacts of the project to a less than significant level. Construction noise impacts, which include noise from excavation activities, are addressed in

Section 2.5.3.2 of the Draft EIR. Standard construction noise reduction measures are required of future development on the site to ensure construction noise would result in less than significant impacts to sensitive receptors adjacent to the site. Any future planned development on the site moving greater than 10,000 cubic yards of soil would require a Haul Permit from the Department of Public Works which would ensure grading activities on the site would not impact the local transportation network. Materials removed from the site as part of remediation activities would not be acutely toxic such that any accidental release of these materials would have the potential to impact public health.

B. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, DATED OCTOBER 26, 2007.

COMMENT B-1: Need to include the southbound I-880 off-ramp/Old Bayshore Rd. and northbound I-880 on-ramp/Old Bayshore Rd. in the intersection analysis and re-submit for review.

RESPONSE B-1: Due to the distance of the I-880 Ramps/Old Bayshore Road intersections from the project site, very few project trips were assigned to these intersections. A greater number of project trips were assigned to the I-880 Ramps/North First Street intersections. Accordingly, the I-880 Ramps /North First Street intersections were included in the level of service analysis while the I-880 ramps/Old Bayshore Road intersections were not.

COMMENT B-2: The following freeway segments need to be included in the freeway analysis and submitted for review: I-680 between McKee and Alum Road, I-680 between McKee and Berryessa and I-680 between Berry and Hostetter for both northbound and southbound directions and a.m. and p.m. peak hours.

RESPONSE B-2: The northbound and southbound freeway segments of I-680 between McKee Road and Berryessa Road and between Berryessa Road and Hostetter Road were evaluated for both the AM and PM peak hours. The segment of I-680 between McKee Road and Alum Rock Avenue was not evaluated because no project trips were assigned to this segment of I-680. Trips generated by the project would in all likelihood use US 101 to access the US 101/I-280 interchange, not I-680.

COMMENT B-3: Need to include both the northbound and southbound freeway analyses for US 101 and I-880 freeway segments listed in the report for both a.m. and p.m. peak hours.

RESPONSE B-3: The Draft EIR does include both the northbound and southbound freeway analyses for the US 101 and I-880 freeway segments listed in the report for both the AM and PM peak hours as shown in Table 2.2-7 on page 63.

COMMENT B-4: Need to mitigate freeway impacts.

RESPONSE B-4: As identified in *Section 2.2.3.2 Mitigation for Freeway LOS Impacts*, mitigation of freeway impacts would require roadway widening to add freeway capacity which is a prohibitively expensive improvement for an

individual development project to construct. Although conceptual projects have been identified recently, no comprehensive project to add thru lanes to impacted freeways has been developed by Caltrans or the Valley Transportation Authority under which individual development projects could pay an impact fee proportionate to their impact on local freeways. The project would be required to incorporate elements to provide facilities for and encourage alternatives modes of transportation including access to the planned BART Berryessa Station on the San José Flea Market site.

COMMENT B-5: Mitigation for US 101/Oakland Road (N) and (S) intersection needs to be in place before the occupancy permit is issued for the development.

RESPONSE B-5: The City of San José is proposing a Transportation Development Policy to manage the traffic congestion associated with near term "smart growth" development in the US 101 – Oakland/Mabury area including Transit-Oriented Development near the planned BART Berryessa Station, including the King and Dobbin Transit Village. The policy would allow the level of service at the identified intersections to temporarily degrade, however the traffic impact fees collected through the policy would ultimately allow the construction of improvements to the US 101/Oakland Road intersections. In the event the policy is not approved, the project would be required to construct the required improvements, wait until the improvements are constructed, or reduce the amount of development proposed to that which would result in a less than significant level.

COMMENT B-6: Queuing analysis should be based on 25 feet per queued vehicle. Re-submit the queuing analysis using the 25 feet per queued vehicle for our review.

RESPONSE B-6: The queuing analysis was revised to reflect an average vehicle length of 25 feet. The results of the revised queuing analysis show that no additional intersections would have left-turn pocket vehicle storage inadequacies. The revised queuing analysis is included in Appendix B (refer to *Section 4 Revisions to the Text of the DEIR*).

COMMENT B-7: Queuing analysis should also be included for the proposed mitigated intersections to determine if the mitigation will address queuing impacts.

RESPONSE B-7: The US 101/Oakland Road interchange ultimately would be reconstructed in conjunction with approval of the US 101 – Oakland/Mabury TDP. Since Caltrans is the approving agency for the proposed interchange design, they will have the opportunity to review vehicle queuing and storage capacity during the interchange approval process.

C. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, DATED OCTOBER 26, 2007.

COMMENT C-1: Forecasting

Page 60, Table 2.2-5: Based on the project description size provided in the document, internal reduction should not be applied to this project. The project site is small so that one could walk within the project area without the need to drive. Please revise accordingly.

RESPONSE C-1: The internal trip reduction was applied to the project due to the reasons identified in the comment. Some residents would choose not to drive to and from other nearby retail uses in the area, but instead would walk to and from the proposed retail uses that would be located on the project site. The result would be fewer vehicle trips and therefore the internal trip reduction was included in the project trip generation assumptions.

COMMENT C-2: Transit and Community Planning

The DEIR shows that the project will have significant unmitigated impacts to I-880 and US 101. However, one of the motivations for this project is to increase transit ridership on the future BART extension from the Berryessa Station. A good pedestrian network can help encourage walking trips to transit services, thereby reducing vehicle trips and impacts on state facilities (I-880, US 101).

A high quality pedestrian environment that includes features such as wide sidewalks and a landscape buffer between the roadway and the sidewalk can help encourage walking. The proposed setback of the development provides a great opportunity to increase sidewalk width and install other pedestrian amenities such as benches, trashcans, and bicycle racks. Consider putting the sidewalk trees shown on the drawing of the development (page 31) in a landscape buffer between the roadway and sidewalk if the development in not currently designed this way.

RESPONSE C-2: The proposed project would install and maintain street trees along the perimeter of the site and adjacent to the roadways as part of the sidewalk improvements required for the project. Sidewalks adjacent to the project site would be built to current City standards and would provide connectivity to existing sidewalks in the project area which extend to the site of the planned BART Berryessa Station.

COMMENT C-3: One of the proposed mitigation measures is construction of a fence around the perimeter of the site adjacent to existing single-family residences (page 43). This measure may reduce walkability if pedestrian access points are not provided. Easy walking connections and routes for residents and other pedestrians across and through the property will help encourage walking. This fencing may also conflict with Balanced Community Policies #22 and #24 of the General Plan, which encourage pedestrian and transit connectivity (page 205-206).

RESPONSE C-3: The project proposes construction of six foot tall solid wood fencing with a two foot lattice extension between the project and existing single family development. The new fencing would be constructed where fences currently exist to separate the site from the rear yards of private properties. In order to clarify the project's fencing proposal, corrected text is shown in *Section 4*

Revisions to the Text of the DEIR. Sidewalks would be constructed throughout the project site to connect the site to the existing sidewalks on North King Road and Dobbin Drive.

COMMENT C-4: Please state what the existing sidewalk widths are (page 49). Just as roadway LOS is provided, an assessment should be made of pedestrian facilities, especially on access routes to existing and future transit.

RESPONSE C-4: The existing sidewalks range between six feet to ten feet in the North King Road and Dobbin Drive area. The majority of roadways in the project area currently have sidewalks on both sides of the street, with crosswalks and pedestrian signal heads with push buttons at all of the signalized intersections. The extensive network of sidewalks within the study area would provide residents of the project with a safe connection between the project site and the other surrounding uses in the area, including transit facilities. Since the proposed project is a high density residential development, the project will be required to construct 12-foot sidewalks along North King Road and 10-foot sidewalks along Dobbin Drive.

COMMENT C-5: Crosswalks are a critical component of the pedestrian environment. The DEIR states that "crosswalks with pedestrian signal heads and push buttons are located at all signalized intersections in the study area" (page 49). However, existing facilities appear minimal. Please describe existing and planned ADA accessibility such as curb cuts, audible signals, and tactile domes. Please consider improvements to the crosswalks such as more prominent treatment of crosswalks and bulb-outs, particularly on access routes to transit stops to improve the pedestrian environment to encourage walking and use of transit. The city and developer may also want to consider a high visibility mid-block crossing of North King Road at Dobbin Drive, as the next marked crosswalks are a substantial distance way.

RESPONSE C-5: The City of San José has determined that the project will be required to install a new traffic signal at the North King Road and Dobbin Drive intersection. The new traffic signal and associated crosswalks will comply with ADA accessibility requirements.

COMMENT C-6: While the DEIR notes that there will not be impacts to transit (page 64), the project applicant may want to consider improving nearby bus stops to encourage transit use and reduce impacts on state highways. These improvements could include adding benches, bus shelters, and pedestrian scale lighting to enhance safety, security, and comfort.

RESPONSE C-6: The project site is served by several bus stops at the intersection of North King Road and Mabury Road, and at the intersection of North King Road and Las Plumas Avenue. No improvements to these bus stops are currently proposed by the project.

COMMENT C-7: The City's policy regarding significant traffic impacts to Protected Intersections conditions project approval on provision of "Transportation System Improvements… that enhance pedestrian, bicycle and/or transit facilities to the community near the Protected Intersection" (page 73). Please describe what "offsetting Transportation System Improvements" will

be provided. It does not appear that any pedestrian, bicycle, or transit improvements are proposed in the DEIR.

RESPONSE C-7: The US 101 – Oakland/Mabury TDP itself would not have significant impacts at protected intersections. The development that would be allowed under the TDP could have significant impacts at protected intersections. Individual projects will be required to prepare traffic impact analyses to determine whether there are any significant impacts to protected intersections. If significant impacts occur due to these individual projects, the offsetting improvements will be identified in the environmental review documents prepared for those projects. The Dobbin Drive residential development project would not have any significant impacts to protected intersections.

COMMENT C-8: The DEIR states that the project is consistent with various policies related to a pleasant walking environment and maximization of transit use such as the BART Station strategy (page 202) and Balanced Community Policy #22 of the General Plan (page 205). Please describe more specifically how the development will meet these objectives. More proactive measure to promote walking and transit should be considered such as improved transit stops and wider sidewalks.

RESPONSE C-8: The project proposes high density residential uses on the site which would support transit ridership on the planned BART extension at the Berryessa station. The project site is within walking distance of the planned BART Berryessa station and sidewalks are provided throughout the project area (see Response C-4). Sidewalks would be constructed throughout the project site to connect the site to the existing sidewalks on North King Road and Dobbin Drive. Since the proposed project is a high density residential development, the project will be required to construct sidewalks that are wider than four and one-half feet along the project frontages.

The project includes up to 25,000 square feet of commercial space along the King Road and Dobbin Drive frontages of the project site. Providing commercial space on the site would likely reduce the number of trips necessary for residents to access commercial services. As stated above, the project is within walking distance to bus transit and the Berryessa station of the planned BART extension to San José. The high density residential project therefore provides access to both existing and planned transit service and commercial services in support of the Balanced Community policies of the General Plan.

COMMENT C-9: Will bicycle parking be provided for residents and/or businesses? Commercial Land Use Policy #1 (page 206) and some of the Balanced Community Policies encourage pedestrian and bicycle access. Provision of secure bicycle parking for residents of the development can help encourage bicycling and potentially minimize impacts to facilities.

RESPONSE C-9: The project proposes to conform to the parking requirements of the City of San José zoning ordinance. The Zoning Ordinance requires one bicycle parking space per four residential units for multi-family residential developments and one bicycle parking space per 20 automobile parking

spaces for commercial development. The project will conform to the City's parking requirements which will ensure secure parking for residents and patrons of the commercial development on the site. Conformance with the Zoning Ordinance will provide adequate bicycle parking on the site to encourage bicycle access in accordance with the General Plan.

D. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE PUBLIC UTILITIES COMMISSION, DATED OCTOBER 29, 2007.

COMMENT D-1: As the state agency responsible for rail safety within California, we recommend that any development project planned adjacent to or near the rail corridor in the City be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way (ROW).

RESPONSE D-1: The nearest railroad ROW to the project site is located on Mabury Road at the San José Flea Market site. There are adequate sidewalks on Mabury Road in order to cross the tracks safely. Crossing arms are located at this crossing to stop vehicle traffic as necessary. Due to the presence of adequate pedestrian facilities and crossing arms at the nearest at-grade crossing, no significant safety impacts would occur due to the project.

COMMENT D-2: Of chief concern is that approval of the project be contingent upon the BART-to-San José project receiving full funding and being built as planned. As planned, the BART system utilizes a restricted access closed-corridor design with no at-grade street or pedestrian crossings. However, full funding for the project has not been secured and is in no way guaranteed. It is quite possible that if full funding for the project is not secured, an alternative of heavy rail Caltrain-style (commuter rail) service, or an extension of the Valley Transportation Authority's (VTA) light rail system could be instituted on the rail corridor, utilizing the existing at-grade highway-rail crossings. If light or commuter rail is instituted, it will create significant impacts not considered by the environmental document.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

RESPONSE D-2: The comment does not raise any issues relevant to the environmental review of the proposed project. The site is currently planned for *Transit Corridor Residential (20+ DU/AC)* in the City's General Plan regardless of the future BART-to-San José extension. The BART extension to San José is an approved project. Any future light rail or commuter rail project proposed along the nearest railroad ROW would be subject to environmental review which would address the safety impacts of the rail project. Further discussion of the possibility that light rail or commuter rail would be constructed on the nearest railroad ROW in the absence of BART would be speculative.

E. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE EAST SIDE UNION HIGH SCHOOL DISTRICT, DATED OCTOBER 29, 2007.

COMMENT E-1: Alum Rock is a "feeder" school district to East Side; substantially all of Alum Rock's eighth grade students continue their high school education in East Side high schools. The neighborhood in which the proposed project is located has never (within recent history) had a neighborhood or "walkable" elementary school within that area. Elementary students currently residing within that area are transported nearly 3 miles over and across a major highway (1-680) to attend elementary school at McCollam Elementary. Shepard Middle School is a driving distance of more than 2 miles from the proposed project, also across 1-680. *Thus, the Draft EIR is incorrect insofar as it specifies that McCollam and Shepard are just 1.3 miles from the proposed project; transportation time and distances for students is longer than as specified in the Draft EIR.*

RESPONSE E-1: Comment noted. The corrected text is shown in *Section 4 Revisions to the Text of the DEIR.*

COMMENT E-2: The Draft EIR (Section 3.3) notes that the proposed project will require the construction of a new elementary school in the project area. Nevertheless, the project does not propose any land on the project site or even in the surrounding area for use as a school site, or even whether there is any land in the surrounding area that would be suitable for a future school site**.** Given the historical lack of any elementary schools and other educational facilities in the subject neighborhood and the 700+ elementary and middle school students that will be generated by this project, I believe that it is important to the East Side community that the EIR more thoroughly address the impacts from the lack of neighborhood schools on children and the community.

RESPONSE E-2: The Alum Rock Union Elementary School District would serve elementary and middle school students generated by the project. As stated under Section 3.3.2 on page 177 of the Draft EIR, California Government Code Sections 65995-65998, set forth provisions for the payment of school impact fees as full and complete school facilities mitigation. In addition the project applicant has reached an agreement with the Alum Rock Union Elementary School District to pay fees beyond those required by state law to develop school facilities as well as assist the District in identifying a potential site for a joint park-school project.

COMMENT E-3: It is widely known that the success of students in high school depends in some measure on (among other things) the quality of education, learning environment and educational resources available to each student during the formative kindergarten through eighth grade school years. *Student preparedness for high school is key to high school success***.** In that regard, East Side participates in joint educational programs, partnerships and interventions with its feeder school districts to facilitate successful student transition from feeder school districts to high school. But these efforts, and the efforts of the feeder elementary school district, can only go so far in an era of limited educational resources and budgetary cuts and uncertainty. For the affected community, an additional ingredient for early student success should and could be a neighborhood elementary school. Nevertheless, the Draft EIR fails to discuss or address in any meaningful way how this community's K-8 educational needs will be met (except, perhaps, by continued busing to distant schools) and why this community should be expected to carry the historical burden of no neighborhood elementary school for its children.

RESPONSE E-3: The Alum Rock Union Elementary School District provides for the educational needs of the students within the district boundaries. The project will be required to pay school impact fees and has an agreement with the district to pay additional fees to develop school facilities.

COMMENT E-4: With specific regard to East Side, the Draft EIR notes that the project will result in approximately 260 new high school students in East Side and that the increase in students will require new or expanded facilities to house such additional students. The Draft EIR incorrectly "assumes" that the additional school facilities would be constructed on existing school sites. As noted above, Independence High School - at approximately 4,000 students -- is already at or above capacity, and is one of the largest (if not the largest) high schools in the entire Silicon Valley. As of this date, East Side does not have firm plans as to where and how the additional students created by the project will be housed, but there is a serious question as to whether it would be appropriate under any circumstance to increase the student population at Independence to that level.

RESPONSE E-4: The East Side Union High School District does not have plans defining how they will address the additional students generated by the project and where any necessary facilities would be constructed and, therefore, it would be speculative for the EIR to discuss any further where these facilities may be located.

COMMENT E-5: Finally, with regard to cumulative school impacts (Draft EIR section 4.3.7.2), the Draft EIR notes that cumulative projects within the area (including the proposed Dobbin Drive project) will result in an additional 1,115 new students for East Side, the rough equivalent of a new small high school. There is no question that Independence High School and the East Side cannot house such an increase in students in existing permanent facilities. Nevertheless, the Draft EIR (at page 195) states:

"It is assumed that the construction of facilities could be sited and designed to avoid significant impacts and, therefore, the proposed project would not result in any significant impact related to the construction of school facilities."

The Draft EIR fails to provide any analysis or other information to support this broad statement.

RESPONSE E-5: The California Department of Education has specific criteria for the siting and construction of new schools in the state. These criteria require that the decision on the location of new facilities take into account the proximity of the site to railroad and power lines, traffic hazards and noise, active earthquake faults, flood inundation zones, fuel storage tanks, etc. Given the extensive siting criteria required by the state, a new school, if required, would be sited and designed to avoid any significant environmental impacts. In the event new classrooms, facilities, and/or upgrades/modernization of facilities are proposed at an existing school site it is assumed that a school is the appropriate use for that site and that the design of the new or modernized facilities would not result in any significant environmental impacts. The corrected text is included in *Section 4 Revisions to the Text of the Draft EIR*.

F. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE VALLEY TRANSPORTATION AUTHORITY, DATED OCTOBER 31, 2007.

COMMENT F-1: Bus Service

VTA provides bus service on King Road. In order to provide convenient access to transit, VTA recommends that the City condition the developer to provide a new bus stop on King Road, north of Dobbin Drive.

- Provide an 8' X 55' PCC passenger waiting pad consistent with VTA standards (attached).
- Provide an 8' X 40' passenger waiting pad, with no trees or planters in the area to interfere with boarding of passengers.

RESPONSE F-1: The VTA's request for a bus stop designed to their specifications is acknowledged. The project site is served by several bus stops at the intersection of North King Road and Mabury Road, and at the intersection of North King Road and Las Plumas Avenue. The bus stops are within adequate walking distance of the project site. The provision of a bus stop along the project frontage is not required to mitigate the significant transportation impacts of the project; however, the VTA's request for a bus stop will be considered by the City as it conditions the project at the Planned Development Permit stage.

COMMENT F-2: Turning Radii

VTA recommends constructing sidewalks with smaller turn radii than indicated on page 31 of Volume I of the EIR. Smaller radii decrease pedestrian crossing distances and promote slower speeds and increased caution around intersections. Please see page 3.03 of VTA's Pedestrian Technical Guidelines for guidance.

RESPONSE F-2: The VTA's design suggestions are acknowledged. The comment raises a design issue which is not an environmental issue that requires further discussion in the EIR. The final design of the sidewalks on the site will be determined as individual PD permits are applied for on each individual parcel.

G. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM MARIAN DURAN, DATED 0CTOBER 20, 2007.

COMMENT G-1: Traffic

2.2.3.2 *Mitigation for Freeway LOS Impacts*
While the existing DEIR mitigation measures will provide some transportation alternatives to community members and residents of the King and Dobbin Transit Village, there are other mitigation measures that can potentially provide residents with further transportation alternatives and help define the form and function of this community. The list follows for each section:

MM Trans-2.1:

- Family and residents who will occupy the King and Dobbin Transit Village can be given yearly VTA passes as an incentive for living at the village to allow for further transportation choices.

MM Trans – 2.2:

- The General Plan Transportation Policy #43 requires improvement to the Transportation Bicycle Network and although the DEIR mentions that there are numerous existing bike lanes, none exist on North King Road south of Berryessa Road. Provisions should be made to connect, as much possible, all of the existing bicycle paths in San José to provide better access to public transit and BART.
- The General Plan Transportation Policy #16 states development should also encourage pedestrian travel by providing pedestrian facilities. Only a small strip of pedestrian walkway currently exists between Las Plumas and McKee Road heading south bound from North King Road. The extension of the sidewalk will provide more pedestrian friendly routes to existing bus stops and also encourage more transit use.
- The developer should submit a Pedestrian Plan to indicate the most efficient pedestrian paths of travel to public transportation options. The pedestrian paths should be designed with appropriate pedestrian amenities, such as adequate street lighting, street trees, crosswalks and handicap accessible sidewalks.
- The General Plan states that new uses, such as commercial and residential, should be coordinated and phased together, so that no one use will be developed separately and in advance of other uses.
- Particularly, in advance of "commensurate job growth" (San José 2020 General Plan, 147). Triggers should be included as a measure to retain livability and quality of life. Enhanced bus services and bike path options will be essential if substantial development is to occur prior to the freeway segment improvements and the BART construction.

RESPONSE G-1: The City of San José, in coordination with the applicant, will determine the appropriate measures to reduce vehicle trips from the site that impact five freeway segments in the project area, prior to the issuance of a Planned Development Permit, as identified on page 75 of the Draft EIR. The proposed roadway right-of-way would allow for a bike lane along the project frontage; however, a bike lane is not currently proposed. The project does not currently propose to make off-site pedestrian improvements south of the project site on North King Road. All of the measures suggested for inclusion in the project will be considered prior to the issuance of the Planned Department Permit.

COMMENT G-2: <u>Hazards and Hazardous Materials</u>

2.4.3.2 *Mitigation for Accidental Chemical Releases*

MM HM -7.1: The Project has significant unavoidable impacts for the possibility of exposing future residents to worst-case accidental hazardous materials releases from nearby industry operations. The mitigation measure, thus far, only provides an emergency and protective action plan that will be coordinated with the project applicant, Clean Harbors Environmental, City of San José Fire Department, and Department of Planning, Building and Code Enforcement. However, the following additional mitigation measures should also be included:

- More key stakeholders included in the planning process of the emergency and protective action plan, such as VTA – bus and light rail, California – Department of Transportation, and the CTC,

so that residents can have other thoroughfares and transportation options in the event they have to evacuate.

- The current traffic conditions will inherently worsen during an emergency, if enhanced bus services and transportation solutions are not coordinated into the design and planning phase of this development.
- Future residents of the development should be thoroughly notified of the potential unavoidable impacts of living in the development. All findings and mitigation measures in the EIR should be incorporated in the CC&Rs of the development, in which potential exposure to hazardous materials should be properly disclosed.
- Creating an Evacuation Plan Map for the future residents of this development in coordination with project applicant and all key stakeholders.
- After development ensuring that all residents have a choice where to go, educate them thoroughly about the plan and then encourage them to create their own Personal Emergency Evacuation Plan (PEEP).

RESPONSE G-2: The emergency and protective action plan for the project will include additional stakeholders necessary to coordinate transportation service and routes if evacuation is necessary due to the nature of the accidental releases for which the plan is being prepared. The CC&Rs for residential development on the site will include disclosure of the potential for accidental chemical releases in the project area. The emergency and protective action plan procedures and evacuation maps for residents will be provided to future residents of the site by the Homeowners' Association or property manager for the residential developments constructed on the site. Text has been added to the Draft EIR to incorporate these additional measures and is shown in *Section 4 Revisions to the Text of the DEIR.*

COMMENT G-3: Proposed Projects

Proposed Park - 1.3.1.4: Parcel D will be the development of a proposed one-acre park. However, a one-acre park is not suitable for a development of this magnitude; a two-acre park will give nearby residents, especially youth, a closer route to better recreational options. The one-acre park falls 6.9 acres under the Parkland Dedication Ordinance and Parkland Impact Ordinance, and although the proposed project will pay in-lieu fees to conform to the PIO/PDO, this offset should not be accepted. Moreover, insufficient parkland dedication may adversely impact the existing neighborhood parks with the new increased demand for park facilities. An article named, *Back to Basics in Transportation Planning*, states that a strong sense of place, along with parks and recreational centers, benefit the overall transportation system as well.[1] Great places and/or popular spots can be a center of good activities that can be comfortably reached by foot, bike and transit, putting little strain on San José's existing transportation system. Parks and recreational spaces are becoming scarcer as more development continues to accommodate our growing population. For that same reason, the San José 2020 General Plan states it is important to dedicate as much open space possible to accommodate the current growing population of San José. Therefore, rather than developing a one-acre park; consider the King and Dobbin Transit Village staff plan, as the choice alternative. The staff plan includes a two-acre public park with a 1:1 ratio setback, starting at 20 feet from the Single-Family detached homes. I have included at end of this letter the signature of San José residents and community members who request that the City require the dedication of a two-acre public park at the

[1] http://www.pps.org/info/bulletin/back_to_basics_in_transportation

King and Dobbin Transit Village, which should also include the following amenities: a playground, water fountain(s), and bike racks.

RESPONSE G-3: The project proposes a one-acre for the site; however, at the discretion of the City Council a larger park could be required on the site consistent with the project's obligation under the PDO/PIO. The applicant has reached an agreement with the Alum Rock Union Elementary School District which includes working with the district to identify a potential site for a joint park-school project. The commentor's opinion in support of a two-acre park is noted. The size of the park is not an environmental issue per se, but rather a design issue for the City Council.

COMMENT G-4: Affordable Housing

*1.4 PROJECT GOALS AND OBJECTIVES***:** I am pleased that the project applicant's goals are to construct up to 138 residential affordable housing units in support of the City's affordable housing policies. It would be sensible for the City to require that these units be built and be equally designed and sited on the property as the market rate units. By ensuring that more than 10% of the units are affordable housing, the development will fulfill the City's goal to house low-income families with better access to public transit to jobs in Downtown and North San José.

RESPONSE G-4: Comment noted. The comment does not raise any issues regarding the adequacy of the Draft EIR. No further response is required.

COMMENT G-5: Energy and Mineral Resources

2.13.4.1 - *Measures to reduce energy consumption during construction*
Avoidance Measure EMR-1.1: I am also pleased that the project shall have a waste management plan for recycling of construction and demolition materials, and that prior to the issuance of building permits, the City will review the plan. Nonetheless, according to the 2004 Statewide Waste Characterization Study by the California Integrated Waste Management Board (CIWMB), construction and demolition materials account for almost 22% of the waste stream. Therefore, the required waste management plan for recycling of construction and demolition materials should include specific measures as indicated by the CIWMB.

RESPONSE G-5: Comment noted. The 2004 Statewide Waste Characterization Study did not identify any specific measures to reduce the amount of construction and demolition materials in the waste stream. The project will reuse demolition materials on-site when feasible and recycle demolition and construction materials in conformance to the waste management plan approved for the project and the City's Construction and Demolition Recycling Program. The comment does not raise any issues regarding the adequacy of the Draft EIR. No further response is required.

COMMENT G-6: 2.13.4.3 *Measures to Reduce Energy Consumption during Construction*
Avoidance Measure EMR-1.4: This measure states that the idling of construction vehicles shall be avoided to reduce fuel consumption, emissions, and noise. However, the monitoring of this measure is ambiguous, and thus, a clear statement of who will monitor this measure should be addressed.

RESPONSE G-6: The Director of Planning, Building, and Code Enforcement has oversight of the implementation of all mitigation measures required by the Draft EIR prepared for the project. The applicant is legally obligated to implement the mitigation measures included in the grading and building permits issued for the proposed project.

COMMENT G-7: 2.13.4.2 *Measures to Reduce Energy Consumption by Design*
Avoidance Measure EMR-1.3: States that the development of the site will incorporate principles of passive solar design to the satisfaction of the Director of Planning, Building, and Code Enforcement. Nevertheless, to reduce further consumption of energy, the development should incorporate green roofs and photovoltaic panels along with passive solar into the projects design of flat roof buildings. All three components, if used together, are more effective in reducing energy consumptions then if each component were to be operating individually. Moreover, Green roofs can provide habitat to urban adapted birds and/or the threatened Bay Checkerspot Butterfly (*Euphydryas editha bayensis),* which can survive if the Plantain plant (*Plantago erecta*) and two species of owl's clover (*Castilleja densiflorus* or *C. exserta*) are planted on the roofs.[2] Residents can also have access to the green roofs to garden and/or maintain native plants for habitat. Green roofs and photovoltaic panels will foster long-term economic, environmental, and social sustainability that are consistent with the City's Green Building Policy and the Mayor's Green Vision. However, if these components cannot be implemented at the time of construction, build the project so that these alternatives can be structurally possible to integrate in the development in the future.

RESPONSE G-7: Due to the infill location close to planned and existing transit and high density nature of the proposed development, the project was found to result in a less than significant impact on energy use. The project does not propose any additional measures to reduce energy use than those identified as AM EMR-1.1 to AM EMR-1.4 on pages 163 and 164 of the Draft EIR. The additional energy savings of incorporating the measures, identified in the above comment, into the project are noted. The City does not currently have a Green Building policy for private sector development. Should such a policy be adopted in the future, the project would comply with whatever requirements were in place at the time of issuance of the PD Permit(s).

COMMENT G-8: 2.1.3.5 *Conclusion - Additional Mitigation Measures not proposed by the applicant*

AM EMR-1.8: I am also pleased to know that the proposed project shall incorporate elements of the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Project Checklist into the design and construction and has several mitigation measures stated. Nevertheless, for a LEED project to be successful, the following mitigation measures should also be incorporated into the LEED design and construction:

- The project should hire a team of experts and professionals that have LEED experience in a mixed-use and affordable housing development before the designing stage of the project.
- A requirement for the use of recycled or reclaimed water for common open space should be incorporated as this is most cost effective and environmentally superior.[3]
- Drought-tolerant native species should be planted in all proposed landscaping areas.

[2] (http://essig.berkeley.edu/endins/baycheck.htm.)
[3] (http://www.usgbc-ncc.org/storage/usgbcncc1/documents/pdf/thecostofgreenrevisited.pdf)

RESPONSE G-8: Although future development on the site may incorporate elements of the LEED Project Checklist, the proposed Planned Development Zoning is not required to incorporate the measures identified in Section 2.13.5 on pages 164 and 165 of the Draft EIR to mitigate a significant impact. The City Council, at its discretion, could require these measures as a condition of approval. It is worth noting that, as stated on page 145 of the Draft EIR, the nearest recycled water line to the site is located approximately 4,000 feet southwest of the site at Watson Park. The project would be required to install recycled water pipelines in open spaces on the site to accommodate future use of recycled water once the pipes are available to the site.

SECTION 4 REVISIONS TO THE TEXT OF THE DEIR

The following section contains revisions to the text of the Draft Environmental Impact Report for the King and Dobbin Transit Village and US 101 – Oakland/Mabury Transportation Development Policy, dated September 2007. Revised or new language is underlined. All deletions are shown ~~with a line through the text~~.

Page 35 Section 1.3.2; **insert** the following text:

1.3.2.1 ***General Plan Text Amendment***

The project includes a proposed Text Amendment to the General Plan to add the following text to Chapter V. Land Use Plan, Special Strategy Areas, Area Development Policies.

US 101 – Oakland/Mabury Transportation Development Policy

The US 101 – Oakland/Mabury Transportation Development Policy was adopted on December 18, 2007 to support development in the US 101/Oakland Road and US 101/Mabury Road corridor. The Transportation Development Policy identifies freeway interchange improvements needed to accommodate future development and does not have specific area boundaries. The intent of the policy is to identify the appropriate interchange improvements, to allow development to proceed ahead of the improvements, and to require payment of a traffic impact fee by new development. The Level of Service (LOS) of a few intersections within the corridor could experience interim congestion below LOS D before the completion of the freeway interchange improvements.

Page 43 Section 2.1.3.2 Avoidance Measures for Visual Intrusion Impacts, Bullet 6; **revise** the following text:

- Construction of a six foot tall solid fencing with two foot lattice screen extension ~~around the perimeter of the site adjacent to the existing single family residences.~~ where the project site abuts single-family residential development.

Page 98 Section 2.4.3.2, MM HM-7.1, second sentence; **revise** the following text:

The emergency and protective action plan shall be prepared in coordination with the project applicant, Clean Harbors Environmental, City of San José Fire Department, Valley Transportation Authority, Caltrans, California Transportation Commission, and Department of Planning, Building and Code Enforcement.

Page 98 Section 2.4.3.2 Mitigation for Accidental Chemical Releases; **insert** the following text:

MM HM-7.2: The purchase/disclosure documents provided to all homeowners on the project site and contract documents provided to any renters on the project site shall include information regarding the presence of nearby industrial facilities using hazardous materials, and protocols to follow

in the event of an accidental release of hazardous materials at the Clean Harbors Environmental facility.[4] This informational document, based on the emergency and protective action plan, shall be prepared by a qualified hazardous materials consultant under contract with the property owner.

MM HM-7.3: The Homeowners' Associations or property managers for the project shall include a safety coordinator who will coordinate with local public safety personnel, as necessary, and inform residents of any updates or alerts regarding hazardous materials incidents.

Page 176 Section 3.3.1 Setting, first paragraph, fifth sentence; **revise** the following text:

The elementary and middle schools ~~closest to the site are both approximately 1.3 miles~~ that would serve the project are located approximately three and two miles, respectively, from the site.

Page 195 Section 4.3.7.2 School Facilities Impacts, first paragraph, sixth sentence; **revise** the following text:

Based on the state's school facilities construction standards (Title 5, California Code of Regulations Division 1, Chapter 13, Subchapter 1 School Facilities Construction), it is assumed that the construction of facilities could be sited and designed to avoid significant impacts and, therefore, the proposed project would not result in any significant impact related to the construction of school facilities.

Appendix B 5. Other Transportation Issues, pages 42, 43, and 45; **insert** revised Tables 9, 10, and 11.

[4] When and if Clean Harbors Environmental (or like users) moves from Lenfest Road this requirement will no longer be necessary.

Table 9 (Revised)
Queuing Analysis - AM Peak Hour

Measurement	Oakland Rd / Commercial St SBL AM	Oakland Rd / Commercial St WBL AM	Oakland Rd / 101 North Ramps NBL AM	13th St / Hedding St SBL AM	Lundy Av / Berryessa Rd NBL AM	Lundy Av / Berryessa Rd WBL AM	13th St / Taylor St SBL AM	King Rd / Mabury Rd NBL AM	101 South Ramps / Julian St WBL AM	King Rd / McKee Rd SBL AM	King Rd / McKee Rd EBL[3] AM
Existing											
Cycle/Delay[1] (sec)	115	115	115	137	150	150	65	139	130	130	130
Volume (vphpl)	82	578	719	128	257	217	39	195	429	55	318
Avg. Queue (veh/ln.)	2.6	18.5	23.0	4.9	10.7	9.0	0.7	7.5	15.5	2.0	11.5
Avg. Queue[2] (ft./ln)	65	462	574	122	268	226	18	188	387	50	287
95th %. Queue (veh/ln.)	6	26	31	9	16	14	2	12	22	5	17
95th %. Queue (ft./ln)	150	650	775	225	400	350	50	300	550	125	425
Storage (ft./ ln.)	175	350	150	125	650	200	200	550	350	250	150
Adequate (Y/N)	Y	**N**	**N**	**N**	Y	**N**	Y	Y	**N**	Y	**N**
Background											
Cycle/Delay[1] (sec)	115	115	115	137	150	150	65	139	130	130	130
Volume (vphpl)	101	739	926	162	302	266	51	224	475	82	431
Avg. Queue (veh/ln.)	3.2	23.6	29.6	6.2	12.6	11.1	0.9	8.6	17.2	3.0	15.6
Avg. Queue[2] (ft./ln)	81	590	740	154	315	277	23	216	429	74	389
95th %. Queue (veh/ln.)	6	32	39	10	19	17	3	14	24	6	22
95th %. Queue (ft./ln)	150	800	975	250	475	425	75	350	600	150	550
Storage (ft./ ln.)	175	350	150	125	650	200	200	550	350	250	150
Adequate (Y/N)	Y	**N**	**N**	**N**	Y	**N**	Y	Y	**N**	Y	**N**
Project											
Cycle/Delay[1] (sec)	115	115	115	137	150	150	65	139	130	130	130
Volume (vphpl)	111	768	1029	189	359	265	59	283	611	114	443
Avg. Queue (veh/ln.)	3.5	24.5	32.9	7.2	15.0	11.0	1.1	10.9	22.1	4.1	16.0
Avg. Queue[2] (ft./ln)	89	613	822	180	374	276	27	273	552	103	400
95th %. Queue (veh/ln.)	7	33	43	12	22	17	3	17	30	8	23
95th %. Queue (ft./ln)	175	825	1075	300	550	425	75	425	750	200	575
Storage (ft./ ln.)	175	350	150	125	650	200	200	550	350	250	150
Adequate (Y/N)	Y	**N**	**N**	**N**	Y	**N**	Y	Y	**N**	Y	**N**

[1] Vehicle queue calculations based on cycle length for signalized intersections and vehicle delay for unsignalized intersections.

[2] Assumes 25 Feet Per Vehicle Queued.

[3] Although there is only 150 feet of striping for the left-turn pocket, the two-way center left-turn lane provides additional overflow storage. Additionaly, a second eastbound left-turn lane is planned and funded by the NSJ traffic impact fee.

Table 10 (Revised)
Queuing Analysis - PM Peak Hour

Measurement	Oakland Rd / Commercial St SBL PM	Oakland Rd / Commercial St WBL PM	Oakland Rd / 101 North Ramps NBL PM	13th St / Hedding St SBL PM	Lundy Av / Berryessa Rd NBL PM	Lundy Av / Berryessa Rd WBL PM	13th St / Taylor St SBL PM	King Rd / Mabury Rd NBL PM	101 South Ramps / Julian St WBL PM	King Rd / McKee Rd SBL PM	King Rd / McKee Rd EBL[3] PM
Existing											
Cycle/Delay[1] (sec)	150	150	75	137	150	150	65	139	130	130	130
Volume (vphpl)	133	349	288	250	118	272	108	35	523	128	279
Avg. Queue (veh/ln.)	5.5	14.5	6.0	9.5	4.9	11.3	2.0	1.4	18.9	4.6	10.1
Avg. Queue[2] (ft./ln)	139	364	150	238	123	283	49	34	472	116	252
95th %. Queue (veh/ln.)	10	21	10	15	9	17	4	3	26	8	16
95th %. Queue (ft./ln)	250	525	250	375	225	425	100	75	650	200	400
Storage (ft./ ln.)	175	350	150	125	650	200	200	550	350	250	150
Adequate (Y/N)	**N**	**N**	**N**	**N**	Y	**N**	Y	Y	**N**	Y	**N**
Background											
Cycle/Delay[1] (sec)	150	150	75	137	150	150	65	139	130	130	130
Volume (vphpl)	165	454	382	296	144	302	126	60	652	174	317
Avg. Queue (veh/ln.)	6.9	18.9	8.0	11.3	6.0	12.6	2.3	2.3	23.5	6.3	11.4
Avg. Queue[2] (ft./ln)	172	473	199	282	150	315	57	58	589	157	286
95th %. Queue (veh/ln.)	11	26	13	17	10	19	5	5	32	11	17
95th %. Queue (ft./ln)	275	650	325	425	250	475	125	125	800	275	425
Storage (ft./ ln.)	175	350	150	125	650	200	200	550	350	250	150
Adequate (Y/N)	**N**	**N**	**N**	**N**	Y	**N**	Y	Y	**N**	**N**	**N**
Project											
Cycle/Delay[1] (sec)	150	150	75	137	150	150	65	139	130	130	130
Volume (vphpl)	191	460	399	390	158	353	160	70	641	168	511
Avg. Queue (veh/ln.)	8.0	19.2	8.3	14.8	6.6	14.7	2.9	2.7	23.1	6.1	18.5
Avg. Queue[2] (ft./ln)	199	479	208	371	165	368	72	68	579	152	461
95th %. Queue (veh/ln.)	13	27	13	21	11	21	6	6	31	10	26
95th %. Queue (ft./ln)	325	675	325	525	275	525	150	150	775	250	650
Storage (ft./ ln.)	175	350	150	125	650	200	200	550	350	250	150
Adequate (Y/N)	**N**	**N**	**N**	**N**	Y	**N**	Y	Y	**N**	Y	**N**

[1] Vehicle queue calculations based on cycle length for signalized intersections and vehicle delay for unsignalized intersections.

[2] Assumes 25 Feet Per Vehicle Queued.

[3] Although there is only 150 feet of striping for the left-turn pocket, the two-way center left-turn lane provides additional overflow storage. Additionaly, a second eastbound left-turn lane is planned and funded by the NSJ traffic impact fee.

Table 11 (Revised)
Queuing Analysis - US 101 Off-Ramps

	US 101 NB Off-Ramp to Oakland Rd				US 101 SB Off-Ramp to Oakland Rd			
	AM Peak Hour		PM Peak Hour		AM Peak Hour		PM Peak Hour	
	WBL	WBR	WBL	WBR	EBL	EBR	EBL	EBR
Existing								
Cycle/Delay[1] (sec)	115	115	75	75	115	115	75	75
Volume (vphpl)	114	355	250	372	194	119	292	613
Avg. Queue (veh/ln.)	3.6	11.3	5.2	7.8	6.2	3.8	6.1	12.8
Avg. Queue[2] (ft./ln)	91	284	130	194	155	95	152	319
95th %. Queue (veh/ln.)	7	17	9	13	11	7	10	19
95th %. Queue (ft./ln)	175	425	225	325	275	175	250	475
Storage (ft./ ln.)	675	675	675	675	1200	650	1200	650
Adequate (Y/N)	Y	Y	Y	Y	Y	Y	Y	Y
Background								
Cycle/Delay[1] (sec)	115	115	75	75	115	115	75	75
Volume (vphpl)	145	566	282	425	233	191	360	784
Avg. Queue (veh/ln.)	4.6	18.1	5.9	8.9	7.4	6.1	7.5	16.3
Avg. Queue[2] (ft./ln)	116	452	147	221	186	153	188	408
95th %. Queue (veh/ln.)	8	25	10	14	12	10	12	23
95th %. Queue (ft./ln)	200	625	250	350	300	250	300	575
Storage (ft./ ln.)	675	675	675	675	1200	650	1200	650
Adequate (Y/N)	Y	Y	Y	Y	Y	Y	Y	Y
Project								
Cycle/Delay[1] (sec)	115	115	75	75	115	115	75	75
Volume (vphpl)	145	566	282	425	233	216	360	886
Avg. Queue (veh/ln.)	4.6	18.1	5.9	8.9	7.4	6.9	7.5	18.5
Avg. Queue[2] (ft./ln)	116	452	147	221	186	173	188	461
95th %. Queue (veh/ln.)	8	25	10	14	12	11	12	26
95th %. Queue (ft./ln)	200	625	250	350	300	275	300	650
Storage (ft./ ln.)	675	675	675	675	1200	650	1200	650
Adequate (Y/N)	Y	Y	Y	Y	Y	Y	Y	Y

[1] Vehicle queue calculations based on cycle length for signalized intersections and vehicle delay for unsignalized intersections.

[2] Assumes 25 Feet Per Vehicle Queued.

SECTION 5 COPIES OF COMMENT LETTERS

The original comment letters received on the Draft EIR are provided on the following pages.

Linda S. Adams
Secretary for
Environmental Protection

Department of Toxic Substances Control

Maureen F. Gorsen, Director
700 Heinz Avenue
Berkeley, California 94710-2721

Arnold Schwarzenegger
Governor

September 26, 2007

Akoni Danielsen
City of San Jose
200 East Santa Clara Street, Third Floor
San Jose, California 95113-1905

Dear Mr. Danielsen:

Thank you for the opportunity to comment on the draft Environmental Impact Report (EIR) for the King and Dobbins Transit Village Planned Development Zoning and US 101/Oakland/Mabury Area Development Policy (Project) (SCH# 2007062068). As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a Responsible Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project under the California Environmental Quality Act (CEQA) adequately addresses activities pertaining to releases of hazardous substances.

According to the draft EIR, the Project would involve demolition of existing light industrial buildings and warehouses totaling 421,000 square feet and construction of up to 1,300 residential units, 50,000 square feet of commercial space, and a three-acre park on the site in the City of San Jose. The draft EIR includes summaries of assessments or identifies significant concerns related to hazardous materials including former agricultural usage, a railroad spur and plating operations that released heavy metals, an undetermined source of solvent contamination (trichloroethylene), asbestos, and lead-based paint.

For each parcel included in the Project, DTSC strongly recommends an that site assessments, including sampling, should be completed to determine whether hazardous substances may have been released into the soil at the site. Since some of the buildings were constructed before 1978, lead and asbestos issues would also need to be addressed. If the past use of these buildings involved hazardous material use, there exists the possibility of a release of these materials to the environment and needs to be investigated. Depending on the past use of these buildings, sampling and remediation of the site may be required before the project site can be developed. Where concerns are identified, sampling should be conducted to determine whether there is an issue that will need to be addressed in the CEQA compliance document.

Where hazardous substances have been released, they will need to be addressed as part of this project. For example, if remediation activities at the Site include the need for soil excavation, the CEQA compliance document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of public upset should be there an accident at the Site.

If you have any questions or would like to schedule a meeting, please contact Tom Price of my staff at (510) 540-3811. Thank you in advance for your cooperation in this matter.

Sincerely,

Karen M. Toth P.E., Unit Chief
Northern California
Coastal Cleanup Operations Branch

cc: Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
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Flex your power!
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October 26, 2007

SCL-101-R36.14
SCL101843
SCH#2007062068

Ms. Dipa Chundur
City of San José
200 East Santa Clara Street
San José, CA 95113

Dear Ms. Chundur:

King and Dobbin Transit Village Planned Development Zoning and US-101/ Oakland/ Mabury Area Development Policy – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR and have the following additional comments to offer.

Highway Operations

1. Need to include the southbound I-880 off-ramp/Old Bayshore Rd. and northbound I-880 on-ramp/Old Bayshore Rd. in the intersection analysis and re-submit for review.

2. The following freeway segments need to be included in the freeway analysis and submitted for review: I-680 between McKee and Alum Road, I-680 between McKee and Berryessa and I-680 between Berry & Hostetter for both northbound and southbound directions and a.m. and p.m. peak hours.

3. Need to include both the northbound and southbound freeway analyses for US 101 and I-880 freeway segments listed in the report for both a.m. and p.m. peak hours.

4. Need to mitigate freeway impacts.

5. Mitigation for US 101/Oakland Road (N) and (S) intersection needs to be in place before the occupancy permit is issued for the development.

6. Queuing analysis should be based on 25 feet per queued vehicle. Re-submit the queuing analysis using the 25 feet per queued vehicle for our review.

7. Queuing analysis should also be included for the proposed mitigated intersections to determine if the mitigation will address queuing impacts.

Additional comments, if any, from our Design functional review branches will forwarded as soon as they are received.

Should you have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

TIMOTHY C SABLE
District Branch Chief
IGR/CEQA

State Clearinghouse (Scott Morgan)

bc: TSable/ JOlveda/ BThomas/ File/ Chron File/ Permits

JLO/jlo

STATE OF CALIFORNIA—BUSINESS, TRANSPORTATION AND HOUSING AGENCY ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION
111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5505
FAX (510) 286-5559
TTY (800) 735-2929

Flex your power!
Be energy efficient!

October 26, 2007

SCL-101-R36.14
SCL101843
SCH#2007062068

Ms. Dipa Chundur
City of San José
200 East Santa Clara Street
San José, CA 95113

Dear Ms. Chundur:

King and Dobbin Transit Village Planned Development Zoning and US-101/ Oakland/ Mabury Area Development Policy – Draft Environmental Impact Report (DEIR)

Thank you for continuing to include the California Department of Transportation (Department) in the environmental review process for the proposed project. We have reviewed the DEIR and have the following comments to offer.

Forecasting
Page 60, Table 2.2-5: Based on the project description size provided in the document, internal reduction should not be applied to this project. The project site is small so that one could walk within the project area without the need to drive. Please revise accordingly.

Transit and Community Planning
The DEIR shows that the project will have significant unmitigated impacts to I-880 and US 101. However, one of the motivations for this project is to increase transit ridership on the future BART extension from the Berryessa Station. A good pedestrian network can help encourage walking trips to transit services, thereby reducing vehicle trips and impacts on state facilities (I-880, US 101).

A high quality pedestrian environment that includes features such as wide sidewalks and a landscape buffer between the roadway and the sidewalk can help encourage walking. The proposed setback of the development provides a great opportunity to increase sidewalk width and install other pedestrian amenities such as benches, trashcans, and bicycle racks. Consider putting the sidewalk trees shown on the drawing of the development (page 31) in a landscape buffer between the roadway and sidewalk if the development in not currently designed this way.

One of the proposed mitigation measures is construction of a fence around the perimeter of the site adjacent to existing single-family residences (page 43). This measure may reduce walkability if pedestrian access points are not provided. Easy walking connections and routes for residents and other pedestrians across and through the property will help encourage walking. This fencing may also conflict with Balanced Community Policies #22 and #24 of the General Plan, which encourage pedestrian and transit connectivity (page 205-206).

Please state what the existing sidewalk widths are (page 49). Just as roadway LOS is provided, an assessment should be made of pedestrian facilities, especially on access routes to existing and future transit.

Crosswalks are a critical component of the pedestrian environment. The DEIR states that "crosswalks with pedestrian signal heads and push buttons are located at all signalized intersections in the study area" (page 49). However, existing facilities appear minimal. Please describe existing and planned ADA accessibility such as curb cuts, audible signals, and tactile domes. Please consider improvements to the crosswalks such as more prominent treatment of crosswalks and bulb-outs, particularly on access routes to transit stops to improve the pedestrian environment to encourage walking and use of transit. The city and developer may also want to consider a high visibility mid-block crossing of North King Road at Dobbin Drive, as the next marked crosswalks are a substantial distance away.

While the DEIR notes that there will not be impacts to transit (page 64), the project applicant may want to consider improving nearby bus stops to encourage transit use and reduce impacts on state highways. These improvements could include adding benches, bus shelters, and pedestrian scale lighting to enhance safety, security, and comfort.

The City's policy regarding significant traffic impacts to Protected Intersections conditions project approval on provision of "Transportation System Improvements...that enhance pedestrian, bicycle and/or transit facilities to the community near the Protected Intersection" (page 73). Please describe what "offsetting Transportation System Improvements" will be provided. It does not appear that any pedestrian, bicycle, or transit improvements are proposed in the DEIR.

The DEIR states that the project is consistent with various policies related to a pleasant walking environment and maximization of transit use such as the BART Station strategy (page 202) and Balanced Community Policy #22 of the General Plan (page 205). Please describe more specifically how the development will meet these objectives. More proactive measure to promote walking and transit should be considered such as improved transit stops and wider sidewalks.

Will bicycle parking be provided for residents and/or businesses? Commercial Land Use Policy #1 (page 206) and some of the Balanced Community Policies encourage pedestrian and bicycle access. Provision of secure bicycle parking for residents of the development can help encourage bicycling and potentially minimize impacts to state facilities.

Additional comments, if any, from our Highway Operations and Design functional review branches will forwarded as soon as they are received.

Should you have any questions regarding this letter, please call José L. Olveda of my staff at (510) 286-5535.

Sincerely,

TIMOTHY C. SABLE
District Branch Chief
IGR/CEQA

State Clearinghouse (Scott Morgan)

STATE OF CALIFORNIA
Arnold Schwarzenegger, *Governor*

PUBLIC UTILITIES COMMISSION
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298

October 29, 2007

Dipa Chundur
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

RE: King and Dobbin Transit Village, SCH# 2007062068

Dear Ms. Chundar:

As the state agency responsible for rail safety within California, we recommend that any development projects planned adjacent to or near the rail corridor in the City be planned with the safety of the rail corridor in mind. New developments may increase traffic volumes not only on streets and at intersections, but also at at-grade highway-rail crossings. This includes considering pedestrian circulation patterns/destinations with respect to railroad right-of-way (ROW).

Of chief concern is that approval of the project be contingent upon the BART-to-San Jose project receiving full funding and being built as planned. As planned, the BART system utilizes a restricted access closed-corridor design with no at-grade street or pedestrian crossings. However, full funding for the project has not been secured and is in no way guaranteed. It is quite possible that if full funding for the project is not secured, an alternative of heavy rail Caltrain-style (commuter rail) service, or an extension of the Valley Transportation Authority's (VTA) light rail system could be instituted on the rail corridor, utilizing the existing at-grade highway-rail crossings. If light or commuter rail is instituted, it will create significant impacts not considered by the environmental document.

The above-mentioned safety improvements should be considered when approval is sought for the new development. Working with Commission staff early in the conceptual design phase will help improve the safety to motorists and pedestrians in the County.

If you have any questions in this matter, please call me at (415) 703-2795.

Very truly yours,

Kevin Boles
Environmental Specialist
Rail Crossings Engineering Section
Consumer Protection and Safety Division

cc: John Donahue, Silicon Valley Rapid Transit

East Side Union High School District
830 North Capitol Avenue • San José, California 95133-1316 • 408-347-5000
Academic, personal and social success for each and every student.
Bob Nuñez, Superintendent

October 29, 2007

VIA FACSIMILE (Facsimile No.: 408-292-6055)
Mr. Joseph Horwedel, Director
Akoni Danielsen, Principal Planner
Dipa Chundur (**Via E-mail only:** dipa.chandur@sanjoseca.gov)
City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3d Floor
San Jose, CA 95113

Re: East Side Union High School District response to Draft EIR for Dobbin Drive project

King and Dobbin Transit Village Planned Development Zoning File No. PDC07-015

Dear Mr. Horwedel:

The East Side Union High School District submits the following comments and concerns regarding the above Draft EIR and proposed project.

The general purpose of the EIR is to provide decision makers and the community with sufficient information necessary to be fully apprised of the environmental consequences of a proposed project. The project proposes the construction of up to 1,300 new dwelling units. The project lies entirely within the attendance boundaries of the Alum Rock Union Elementary School District ("Alum Rock") and the East Side Union High School District ("East Side"). The proposed project is located entirely within the Independence High School attendance boundaries. The proposed project, once completed, is expected to add approximately 260 new high school students to East Side. As noted in the Draft EIR, Independence (which is the largest high school within East Side) currently houses approximately 4,000 students and is at or above capacity.

Alum Rock is a "feeder" school district to East Side; substantially all of Alum Rock's eighth grade students continue their high school education in East Side high schools. The neighborhood in which the proposed project is located has never has (within recent history) had a neighborhood or "walkable" elementary school within that area. Elementary students currently residing within that area are transported nearly 3 miles over and across a major highway (I-680) to attend elementary school at McCollam Elementary. Shepard Middle School is a driving distance of more than 2 miles from the proposed project, also across I-680. ***Thus, the Draft EIR is incorrect insofar as it specifies that McCollam and Shepard are just 1.3 miles from the proposed project; transportation time and distances for students is longer than as specified in the Draft EIR.***

The Draft EIR (Section 3.3) notes that the proposed project will require the construction of a new elementary school in the project area. **Nevertheless, the project does not propose any land on the project site or even in the surrounding area for use as a school site, or even whether there is any land in the surrounding area that would be suitable for a future school site.** Given the historical lack of any elementary schools and other educational facilities in the subject neighborhood and the 700+ elementary and middle school students that will be generated by this project, I believe that it is important to the East Side community that the EIR more thoroughly address the impacts from the lack of neighborhood schools on children and the community.

It is widely known that the success of students in high school depends in some measure on (among other things) the quality of education, learning environment and educational resources available to each student during the formative kindergarten through eighth grade school years. *Student preparedness for high school is key to high school success.* In that regard, East Side participates in joint educational programs, partnerships and interventions with its feeder school districts to facilitate successful student transition from feeder school districts to high school. But these efforts, and the efforts of the feeder elementary school district, can only go so far in an era of limited educational resources and budgetary cuts and uncertainty. For the affected community, an additional ingredient for early student success should and could be a neighborhood elementary school. Nevertheless, the Draft EIR fails to discuss or address in any meaningful way how this community's K-8 educational needs will be met (except, perhaps, by continued busing to distant schools) and why this community should be expected to carry the historical burden of no neighborhood elementary school for its children.

With specific regard to East Side, the Draft EIR notes that the project will result in approximately 260 new high school students in East Side and that the increase in students will require new or expanded facilities to house such additional students. The Draft EIR incorrectly "assumes" that the additional school facilities would be constructed on existing school sites. As noted above, Independence High School – at approximately 4,000 students -- is already at or above capacity, and is one of the largest (if not the largest) high schools in the entire Silicon Valley. As of this date, East Side does not have firm plans as to where and how the additional students created by the project will be housed, but there is a serious question as to whether it would be appropriate under any circumstance to increase the student population at Independence to that level.

Finally, with regard to cumulative school impacts (Draft EIR section 4.3.7.2), the Draft EIR notes that cumulative projects within the area (including the proposed Dobbin Drive project) will result in an additional 1,115 new students for East Side, the rough equivalent of a new small high school. There is no question that Independence High School and the East Side cannot house such an increase in students in existing permanent facilities. Nevertheless, the Draft EIR (at page 195) states:

"It is assumed that the construction of facilities could be sited and designed to avoid significant impacts and, therefore, the proposed project would not result in any significant impact related to the construction of school facilities."

The Draft EIR fails to provide any analysis or other information to support this broad statement.

Thank you again for the opportunity to provide these comments to the Draft EIR. Please contact me or Associate

Sincerely,

Bob Nuñez
Superintendent

cc: ESUHSD Board Members
Alan Garofalo, Associate Superintendent

SANTA CLARA
Valley Transportation Authority

October 31, 2007

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: Dipa Chandur

Subject: City File No. PDC07-015 / King and Dobbin Transit Village

Dear Ms. Chandur:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft EIR for construction of up to 1,287 housing units and up to 25,000 square feet of commercial space on 24.8 acres at the northeast corner of King Road and Dobbin Drive. We have the following comments.

Bus Service

VTA provides bus service on King Road. In order to provide convenient access to transit, VTA recommends that the City condition the developer to provide a new bus stop on King Road, north of Dobbin Drive

- Provide an 8' X 55' PCC passenger waiting pad consistent with VTA standards (attached).
- Provide an 8' X 40' passenger waiting pad, with no trees or planters in the area to interfere with boarding of passengers.

Turning Radii

VTA recommends constructing sidewalks with smaller turn radii than indicated on page 31 of Volume I of the EIR. Smaller radii decrease pedestrian crossing distances and promote slower speeds and increased caution around intersections. Please see page 3.03 of VTA's Pedestrian Technical Guidelines for guidance.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

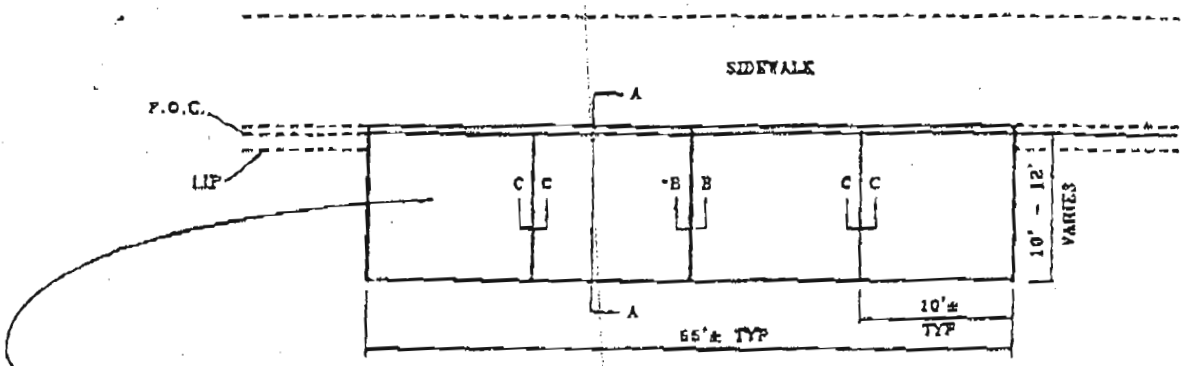
Sincerely,

Roy Molseed
Senior Environmental Planner

RM:kh

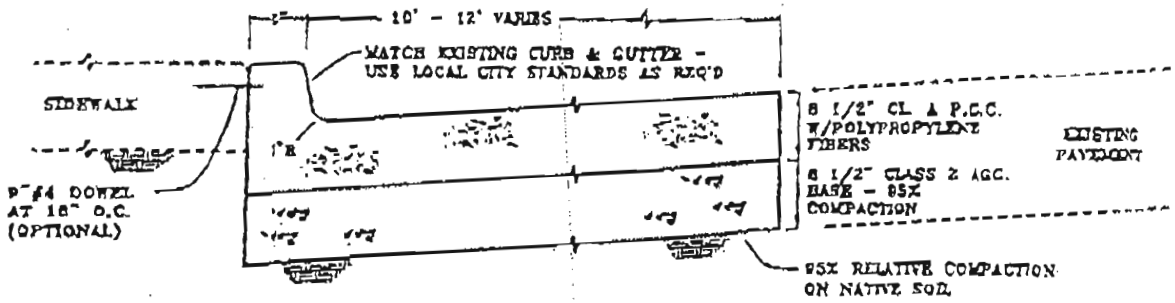
cc: Ebrahim Sohrabi, San Jose Development Services
Samantha Swan, VTA

SJ060S



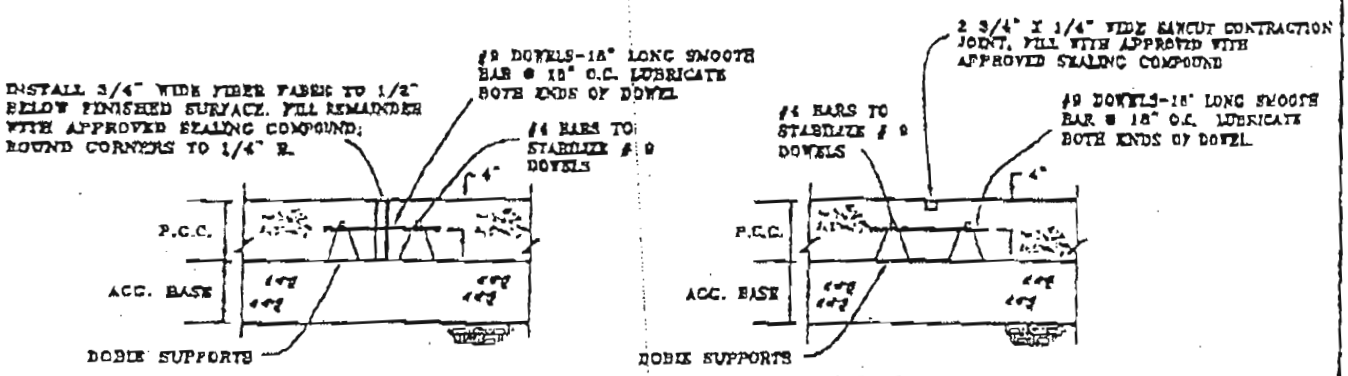
PLAN VIEW

*EXPANSION JOINT SHALL BE PLACED AT 1/2 THE LENGTH OF THE P.C.C. PAD. IN LONG PADS, EXPANSION JOINTS SHALL BE PLACED AT APPROXIMATELY 60 FOOT INTERVALS OR AS SPECIFIED BY THE ENGINEER.



SECTION A–A

PCC PAVEMENT WITH MONOLITHIC CURB



SECTION B–B

EXPANSION JOINT

SECTION C–C

CONTRACTION JOINT

NOTE: FOR TECHNICAL SPECIFICATIONS REFER TO ATTACHMENT 1.

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

BUS STOP PAVEMENT DETAILS

FIGURE 26

TECHNICAL SPECIFICATIONS

1. P.C.C. pavement with monolithic curb and gutter shall conform to the provisions in Section 40, " PORTLAND CEMENT CONCRETE PAVEMENT," and Section 90, " PORTLAND CEMENT CONCRETE" of the State Standard Specifications and these special provisions.

2. P.C.C. pavement shall be class A with a flexural strength of 650 psi, at the age of 28 days to be determined by Test Method ASTM C78. Polypropylene fibers (Fibermesh or approved equal), length 1/2", shall be added to the concrete at a rate of 1 1/2 lbs/cy.

3. After spreading and compacting, P.C.C. concrete shall be given a preliminary finish, which shall be smooth and true to grade. In advance of curing operations, the pavement shall be given a final rough broom finish with grooves having a depth of 1/8" perpendicular to the curb and gutter.

4. All newly - placed concrete shall be cured in accordance with the provisions in Section 90-7, "Curing Concrete," of the State Standard Specifications. Curing compound to be used shall be applied to the P.C.C. following the surface finishing operations immediately before the moisture sheen disappears from the surface and before any drying, shrinkage or craze cracks begin to appear. Curing compound shall be applied at a nominal rate of one gallon per 150 square feet. At any point, the application rate shall be within +/- 50 square feet per gallon of the nominal rate specified.

5. Sawcutting of the contraction joints must be performed within 24 hours after concrete has received final surface finish.

6. Contractor shall protect P.C.C. Pad as specified in Section 90-8.03, " Protecting Concrete Pavement" Where public traffic will be required to cross over new pavement, and if directed by the Engineer, Type III Portland Cement shall be used in concrete. When Type III Portland Cement is used in concrete, and if permitted in writing by the Engineer, the pavement may be opened to traffic as soon as the concrete has developed a modulus of rupture of 550 pounds per square inch. The modulus of rupture will be determined by Test Method ASTM C78.

   No traffic or Contractor's equipment, except as hereinafter provided, will be permitted on the pavement before a period of ten (10) calendar days has elapsed after the concrete has been placed, nor before the concrete has developed a modulus of rupture of at least 550 pounds per square inch. Concrete that fails to attain a modulus of rupture of 550 pounds per square inch within 10 days shall not be opened to traffic until directed by the Engineer.

   Equipment for sawing contraction joints (weakened plane joints) will be permitted on the pavement as specified in Section 40-1.08B, "Weakened Plane Joints," of the State Standard Specifications.

7. Contraction joints, expansion joints and gaps between the P.C.C. pad and the existing pavement section shall be cleaned and sealed prior to permitting traffic on the pad. Joint sealing compound shall be type "A" joint seal and shall conform to the provisions of Section 51-1.12F of the State Standard Specifications. The 2 component polyurethane sealant shall be State Specification 8030 - 61J - 01 or approved equal.

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

BUS STOP PAVEMENT DETAILS

ATTACHMENT 1 FOR FIGURE 26

Marian Duran
P.O BOX 3306
San José, CA 95133

October 20, 2007

Dipa Chundur
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, Tower 3
San José, CA 95113-1905

Dear Ms. Chundur,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the King and Dobbin Transit Village Planned Development Zoning File No. PDC07-015/SCH# 2007062068. I have reviewed the DEIR and have the following comments to offer.

Traffic

2.2.3.2 *Mitigation for Freeway LOS Impacts*

While the existing DEIR mitigation measures will provide some transportation alternatives to community members and residents of the King and Dobbin Transit Village, there are other mitigation measures that can potentially provide residents with further transportation alternatives and help define the form and function of this community. The list follows for each section:

MM Trans-2.1:

- Family and residents who will occupy the King and Dobbin Transit Village can be given yearly VTA passes as an incentive for living at the village to allow for further transportation choices.

MM Trans – 2.2:

- The General Plan Transportation Policy #43 requires improvement to the Transportation Bicycle Network and although the DEIR mentions that there are numerous existing bike lanes, none exist on North King Road south of Berryessa Road. Provisions should be made to connect, as much possible, all of the existing bicycle paths in San José to provide better access to public transit and BART.
- The General Plan Transportation Policy #16 states development should also encourage pedestrian travel by providing pedestrian facilities. Only a small strip of pedestrian walkway currently exists between Las Plumas and McKee Road heading south bound from North King Road. The extension of the sidewalk will provide more pedestrian friendly routes to existing bus stops and also encourage more transit use.
- The developer should submit a Pedestrian Plan to indicate the most efficient pedestrian paths of travel to public transportation options. The pedestrian paths should be designed with appropriate pedestrian amenities, such as adequate street lighting, street trees, crosswalks and handicap accessible sidewalks.
- The General Plan states that new uses, such as commercial and residential, should be coordinated and phased together, so that no one use will be developed separately and in advance of other uses.

- Particularly, in advance of "commensurate job growth" (San José 2020 General Plan, 147). Triggers should be included as a measure to retain livability and quality of life. Enhanced bus services and bike path options will be essential if substantial development is to occur prior to the freeway segment improvements and the BART construction.

Hazards and Hazardous Materials

2.4.3.2 *Mitigation for Accidental Chemical Releases*

MM HM -7.1: The Project has significant unavoidable impacts for the possibility of exposing future residents to worst-case accidental hazardous materials releases from nearby industry operations. The mitigation measure, thus far, only provides an emergency and protective action plan that will be coordinated with the project applicant, Clean Harbors Environmental, City of San José Fire Department, and Department of Planning, Building and Code Enforcement. However, the following additional mitigation measures should also be included:

- More key stakeholders included in the planning process of the emergency and protective action plan, such as VTA – bus and light rail, California – Department of Transportation, and the CTC, so that residents can have other thoroughfares and transportation options in the event they have to evacuate.
- The current traffic conditions will inherently worsen during an emergency, if enhanced bus services and transportation solutions are not coordinated into the design and planning phase of this development.
- Future residents of the development should be thoroughly notified of the potential unavoidable impacts of living in the development. All findings and mitigation measures in the EIR should be incorporated in the CC&Rs of the development, in which potential exposure to hazardous materials should be properly disclosed.
- Creating an Evacuation Plan Map for the future residents of this development in coordination with project applicant and all key stakeholders.
- After development ensuring that all residents have a choice where to go, educate them thoroughly about the plan and then encourage them to create their own Personal Emergency Evacuation Plan (PEEP).

Proposed Projects

Proposed Park - 1.3.1.4: Parcel D will be the development of a proposed one-acre park. However, a one-acre park is not suitable for a development of this magnitude; a two-acre park will give nearby residents, especially youth, a closer route to better recreational options. The one-acre park falls 6.9 acres under the Parkland Dedication Ordinance and Parkland Impact Ordinance, and although the proposed project will pay in-lieu fees to conform to the PIO/PDO, this offset should not be accepted. Moreover, insufficient parkland dedication may adversely impact the existing neighborhood parks with the new increased demand for park facilities. An article named, *Back to Basics in Transportation Planning*, states that a strong sense of place, along with parks and recreational centers, benefit the overall transportation system as well.[1] Great places and/or popular spots can be a center of good activities that can be comfortably reached by foot, bike and transit, putting little strain on San José's existing transportation system. Parks and recreational spaces are becoming scarcer as more development

[1] http://www.pps.org/info/bulletin/back_to_basics_in_transportation

continues to accommodate our growing population. For that same reason, the San José 2020 General Plan states it is important to dedicate as much open space possible to accommodate the current growing population of San José. Therefore, rather than developing a one-acre park; consider the King and Dobbin Transit Village staff plan, as the choice alternative. The staff plan includes a two-acre public park with a 1:1 ratio setback, starting at 20 feet from the Single-Family detached homes. I have included at end of this letter the signature of San José residents and community members who request that the City require the dedication of a two-acre public park at the King and Dobbin Transit Village, which should also include the following amenities: a playground, water fountain(s), and bike racks.

Affordable Housing

***1.4 PROJECT GOALS AND OBJECTIVES*:** I am pleased that the project applicant's goals are to construct up to 138 residential affordable housing units in support of the City's affordable housing policies. It would be sensible for the City to require that these units be built and be equally designed and sited on the property as the market rate units. By ensuring that more than 10% of the units are affordable housing, the development will fulfill the City's goal to house low-income families with better access to public transit to jobs in Downtown and North San José.

Energy and Mineral Resources

2.13.4.1 - *Measures to reduce energy consumption during construction*

AM EMR-1.1: I am also pleased that the project shall have a waste management plan for recycling of construction and demolition materials, and that prior to the issuance of building permits, the City will review the plan. Nonetheless, according to the 2004 Statewide Waste Characterization Study by the California Integrated Waste Management Board (CIWMB), construction and demolition materials account for almost 22% of the waste stream. Therefore, the required waste management plan for recycling of construction and demolition materials should include specific measures as indicated by the CIWMB.

2.13.4.3 *Measures to Reduce Energy Consumption during Construction*

AM EMR-1.4: This measure states that the idling of construction vehicles shall be avoided to reduce fuel consumption, emissions, and noise. However, the monitoring of this measure is ambiguous, and thus, a clear statement of who will monitor this measure should be addressed.

2.13.4.2 *Measures to Reduce Energy Consumption by Design*

AM EMR-1.3: States that the development of the site will incorporate principles of passive solar design to the satisfaction of the Director of Planning, Building, and Code Enforcement. Nevertheless, to reduce further consumption of energy, the development should incorporate green roofs and photovoltaic panels along with passive solar into the projects design of flat roof buildings. All three components, if used together, are more effective in reducing energy consumptions then if each component were to be operating individually. Moreover, Green roofs can provide habitat to urban adapted birds and/or the threatened Bay Checkerspot Butterfly (*Euphydryas editha bayensis),* which can survive if the Plantain plant (*Plantago erecta*) and two species of owl's clover (*Castilleja densiflorus* or *C. exserta*) are planted on the roofs.[2] Residents can also have access to the green roofs to garden and/or maintain native plants

[2] (http://ceseig.berkeley.edu/endim/baycheck.htm.)

for habitat. Green roofs and photovoltaic panels will foster long-term economic, environmental, and social sustainability that are consistent with the City's Green Building Policy and the Mayor's Green Vision. However, if these components cannot be implemented at the time of construction, build the project so that these alternatives can be structurally possible to integrate in the development in the future.

2.1.35 ***Conclusion - Additional Mitigation Measures not proposed by the applicant***

AM EMR-1.8: I am also pleased to know that the proposed project shall incorporate elements of the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) Project Checklist into the design and construction and has several mitigation measures stated. Nevertheless, for a LEED project to be successful, the following mitigation measures should also be incorporated into the LEED design and construction:

- The project should hire a team of experts and professionals that have LEED experience in a mixed-use and affordable housing development before the designing stage of the project.
- A requirement for the use of recycled or reclaimed water for common open space should be incorporated as this is most cost effective and environmentally superior.[3]
- Drought-tolerant native species should be planted in all proposed landscaping areas.

Thank you for your consideration of these recommendations,

Marian Duran, District 3 Resident
viamarian@hotmail.com

[3] (http://www.usgbc-nec.org/storage/usgbcnec1/documents/pdf/thecostofgreenrevisited.pdf)

Community Members, Neighbors Within the Vicinity and Other Residents of San Jose who request that the City dedicate a two-acre public park at the King and Dobbin Transit Village planned development, with park amenities such as a small playground, a drinking fountain, and a few bike racks.

	Full Name	Phone Number or Email
1	Vimal Hafa	408-854 8927
2	Mike Tang	408 . 254-1587
3	Valentina Flores	408-688-4104
4	M Lazpeiz	(408) 250-0531
5		(408) 9290312
6	Jeff Bado	(408) 729-3773
7		408-254-8928
8	M Rodriguez *	(408) 251-2482
9		(408) 394-7671
10	Holly Eu	(408) 272-0373
11	John Mathes	408-259 3620
12		(503) 269-5652
13	Mike Graham	408.350.8781
14	Virgil Mar	408(493-5065
15	GLORIA BERRY	408(525-2313)
16		408 923 1383
17	Sandra Moreno	sandra-moreno 21@yahoo.com

Residents of San Jose who request that the City dedicate a two-acre public park at the King and Dobbin Transit Village planned development, with park amenities such as a small playground, a drinking fountain, and a few bike racks.

	Full Name	Phone Number or Email
18	Lydia Porras-Muñoz	Lporras27@yahoo.com
19	Marissa Figueroa Sjsu Student	figgy-24@yahoo.com
20	T.J. Barlaan	tjbarlaan@yahoo.com
21	Christina Garcia	tzitapill@yahoo.com
22	Grace Fernandez	937-6205
23	Emma L. Madrigal	247-2482
24	Edwin O Perez	217-2482
25	Alicia Gomez	AG@yahoo.com
26	Mauricio Alejandre	Mauricio Alejandre@AT&T
27	Marian Gallardt	Goddessrock-15@yahoo
28	Sylvia Booth	937-5038
29	Armando Lopez	413-8851
30	Maya Lynda Ortega	408 849 8080
31	Sandy Banuelos	sandyeb-04@hotmail.co
32	Moses Caceres	GBBackerHors@SBCGlobal.
33	Blanca I Sanchez	Ivansan_13@yahoo.com
34	Julia Andrade	tortasytacos86@gmail.c

2 ACRE

Community Members, Neighbors within the Vicinity and other Residents of San Jose who request that the City dedicate a two-acre public park at the King and Dobbin Transit Village planned development, with park amenities such as a playground, a drinking fountain and a few bike racks.

	Full Name Signature	Phone Number or E-mail
35		[redacted] Brawleon@yahoo.com
36	Angelica Ochoa	aochoa@sjsu.edu
37	Solida Chan	solidachan@yahoo.com
38	Julieta Sanchez	Sanchez_9906518@hotmail.com
39	Hoan Nguyen	hnguyc97@hotmail.com
40	Gisela Gray-Peoples	Gisela.Gray-Peoples@sjsu.edu
41	Linda Flores	LFLOREZ@sjsu.edu
42	Cesar David	espyla_cap2@yahoo.com
43	Stephanie McNevin	stephmcnevin@yahoo.com
44	Patricia Gutierrez	P.gutierrez@sjsu.edu
45	Alfredo Ramirez Alfredo Ramirez	alfredo.ram@yahoo.com
46	Marita Zavaleta	maritaelz@hotmail.com
47	Roberto Gil	N/A
48	Blanca Millan	(none)
49	Marisela Millan	mariking@hotmail.com

Community Members, Neighbors within the Vicinity and other Residents of San Jose who request that the City dedicate a two-acre public park at the King and Dobbin Transit Village planned development, with park amenities such as a playground, a drinking fountain and a few bike racks.

	Full Name Signature	Phone Number or E-mail
50	Tarran Hartley	408-924-2102 tarran.hartley@s
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53	Tammy	408 892-6713
54	Victoria Huynh	408.924.3560
55	Anna Nash	408-924-2039
56	Lisa Beltran	(408) 924-2057
57	Marian Soffa	408-924-2012
58	Rosalba Costa	(408) 924-2081
59	Leticia Mayoral	(408) 924-2031
60	H. VERONICA DIAZ	(408) 924-6475 Veronica.Diaz@sjsu.edu
61	MINH VIRASAK	408-295-7494 minh.virasak@gmail.com
62	DAVE TAUFALELE	408 985-3002.
63	JOSH TAUFALELE	408 449-1853
64	AMELIA TAUFALELE	650 630-3997
65	SEPETI TAIMAINI	408 937-9655

Residents of San Jose who request that the City dedicate a two-acre public park at the King and Dobbin Transit Village planned development, with park amenities such as a playground, a drinking fountain and a few bike racks.

	Full Name Signature	Phone Number or E-mail
66	Jennifer [illegible]	(408) 2720439
67	Alejandra [illegible]	408-272-0437
68	Gloria A. Toledano	(408) 295-9208
69	Miguel [illegible] Villa	(408) 258-3329
70	SANH BANH	(408) 254-8928
71	HANG TRAN	(408) 254-8928
72	BE TRAN	(408) 254-8928
73	Nguyet Ha	(408) 254-8928
74	Quyen Tran	(408) 254 8928
75	Marian Duan	(408) 250-0531
76	Thoun Calin	(408) 218-4050
77	Christopher Lepe	(408) 425-4430
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